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Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

The rule of law at the national and international levels

Letter dated 23 May 2016 from the Permanent Representative of the Democratic People's Republic of Korea to the United Nations addressed to the Secretary-General

I have the honour to write you in order to request the viewpoints of Your Excellency, believing that there is a serious legal contradiction in the "sanctions resolutions" in which the Security Council has determined the nuclear tests and peaceful satellite launches conducted by the Democratic People's Republic of Korea (DPRK) as a "threat to international peace and security".

The Security Council has so far adopted resolutions 1718 (2006), 1874 (2009), 2094 (2013) and 2270 (2016) regarding the first, second and third nuclear tests and the first hydrogen bomb test respectively.

The issue here is preambular paragraph 9 and paragraph 1 of resolution 1718 (2006), preambular paragraph 8 of resolution 1874 (2009), preambular paragraph 7 of resolution 2094 (2013) and preambular paragraph 11 of resolution 2270 (2016), which have determined the nuclear tests and satellite launches of the DPRK as a "threat to international peace and security".

In this regard, I would like to raise the following questions.

The first question is on what the legal ground is for determining the DPRK's nuclear tests and satellite and ballistic rocket launches as a "threat to international peace and security" in the Security Council "sanctions resolutions".

Nowhere in the relevant international laws including the Charter of the United Nations, the General Assembly resolutions, the Comprehensive Nuclear-Test-Ban Treaty, the Treaty on the Non-Proliferation of Nuclear Weapons, the Outer Space Treaty, etc. can we find a single provision that nuclear tests are determined as a "threat to international peace and security".

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The second question is on why the Security Council has never ever made an issue of nor enforced any sanctions on the United States and other countries regarding their nuclear tests of over 2,000 times, ongoing regular satellite and ballistic rocket launches, if any nuclear test or satellite or ballistic rocket launch is considered a "threat to international peace and security".

Third, in the case of no convincing legal clarification being given on the above questions, it will be concluded that the Security Council has gone beyond its powers, lost the impartiality which is vital for international organizations and committed an act of double standards, by behaving trickily with the application of Article 39 of Chapter VII of the Charter, which stipulates that the Security Council shall determine the existence of any threat to international peace and security before taking any action on sanctions.

I look forward to receiving a reply of legal clarification from the Secretariat.

I should be grateful if you would have this letter circulated as an official document of the seventieth session of the General Assembly under agenda items 84 and 85, and of the Security Council.

(*Signed*) JA Song Nam
Ambassador
Permanent Representative